

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

In Re: Anthony Rowland)
Personal Property Account Number P-133471) Davidson County
Tax Year 2007)

INITIAL DECISION AND ORDER DISMISSING APPEAL

Statement of the Case

On November 3, 2007, the State Board of Equalization ("State Board") received the above-styled appeal by Anthony Rowland, an agent of Allstate Insurance.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. The undersigned administrative judge conducted a jurisdictional hearing relative to this matter on January 17, 2008, in Nashville, Davidson County, Tennessee. Present at the hearing was Anthony Rowland, Kenny Venson, from the Davidson County Assessor's Office; and Attorney Jenny Hayes from the Metropolitan Legal Department.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Anthony Rowland is an agent for Allstate Insurance and his office is a commercial business located at 100-7 Murfreesboro Road, a location in Nashville and Davidson County

The threshold issue to be decided is whether or not the State Board of Equalization has the jurisdiction to hear this taxpayer's appeal. The law in Tennessee generally requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. T.C.A. §§ 67-5-1401 & 67-5-1412 (b). A direct appeal to the State Board of Equalization is only permitted, if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. T.C.A. §§ 67-5-508(b)(2); 67-5-1412 (e). Nevertheless, the legislature has also provided that:

The taxpayer shall have a right to a hearing and determination to show **reasonable cause** for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1st of the year subsequent to the year in which the assessment is made (*emphasis added*).

In analyzing and reviewing T.C.A. § 67-5-1412 (e), the Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge

of them. It was not the intent of 'reasonable cause' provisions to waive these requirements except where the failure to meet them is **due to illness or other circumstances beyond the taxpayer's control.** (*emphasis added*), *Associated Pipeline Contractors Inc.*, (Williamson County Tax Year 1992, Assessment Appeals Commission, Aug. 11, 1994). See also *John Orovets*, (Cheatham County, Tax Year 1991, Assessment Appeals Commission, Dec. 3, 1993).

Additionally, an Attorney General's Opinion¹ and numerous decisions has thoroughly discussed and espoused the primary principles by which any analysis of jurisdictional issues are conducted. Thus for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond his control prevented him from appealing to the Davidson County Board of Equalization. It is the taxpayer's burden to prove that he is entitled to the requested relief.

Generally, except in the event of insufficient notice of a change in classification and/or valuation, a property assessment which is not appealed to the county board of equalization during its regular annual session becomes final. See T.C.A. §§ 67-5-1401 and 67-5-1412(b). In 1991, the General Assembly amended the law by affording a taxpayer the opportunity for a hearing before the State Board to demonstrate "reasonable cause" for failure to appeal the property in question to the county board of equalization (or for failure to appeal to the State Board in a timely manner).

Mr. Rowland testified that he did not realize he had failed to file the required Schedule B² until he received his tax bill. He also stated that prior to 2006; Allstate filed and paid personalty taxes for their agents. Mr. Rowland had no further explanation for failing to follow the law but was empathic that he did not receive the Notice of Assessment.

Mr. Kenny Venson, testifying on behalf of the County, stated that the last time their records showed a schedule had been timely filed by this taxpayer's business was in 2006.

Unfortunately, in this case Mr. Rowland's explanation does not establish "reasonable cause" and, therefore, he has not met his burden of proof.³

ORDER

It is, therefore, ORDERED that this appeal be dismissed for lack of jurisdiction.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-

¹ Written October 8, 1992, at 92-62 by Office of the Attorney General

² T.C.A. § 67-3-903

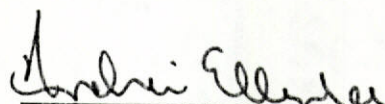
³ Rules of the State Board of Equalization, Rule 0600-1-.11(1)

1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 13th day of March, 2008.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Anthony Rowland
Jenny Hayes, Esq.
Jo Ann North, Assessor of Property